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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,579	04/14/2004	Dan Anthony Balogh	29250-002026/US	6233
7590 04/19/2010 HARNESS, DICKEY & PIERCE, P.L.C. P.O. Box 8910 Reston, VA 20195				
EXAMINER CHO, HONG SOL				
ART UNIT 2467		PAPER NUMBER		
MAIL DATE 04/19/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,579

Applicant(s)

BALOGH ET AL.

Examiner

Hong Cho

Art Unit

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/15/10.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on 03/15/10. Claims 1-41 are pending in the instant application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-18 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmavaara et al (US 7359347), hereinafter referred to as Ahmavaara, in view of Lin et al (US 20040240430), hereinafter referred to as Lin.

Re claims 1, 11 and 41, Ahmavaara discloses receiving at a first network controller operating according to a first radio technology, a message relay request from a mobile station for which the first network controller is handling a packet switched call, forming a relay message to include an embedded message for conveying a switch in radio technology and sending the relay message to a second controller operating according to a

second radio technology over a tunneling medium (column 3, line 51 to column 4, line 7; column 7, line 60 to column 8, line 6), but fails to disclose receiving the message relay request including a network controller identifier identifying a second network controller capable of receiving a signal from the mobile station. However, Lin discloses receiving a request message at a base station and relaying the message to the gateway (paragraphs [0069] and [0070]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Ahmavaara with the teaching of Lin in receiving a message identifying a second network controller for the benefit of selecting the appropriate network type upon user request.

Re claims 2, 3 and 12, Ahmavaara discloses a message relay request including an origination message for originating a call at the second network controller operating according to a second radio technology (figure 2, column 6, lines 36-45).

Re claims 4, 5 and 13, Ahmavaara discloses a message relay request including an identifier identifying the message relay request as a message relay request and an identifier of a packet data serving node handling the packet switched call of the mobile station (column 2, lines 1-20).

Re claims 6 and 16, Ahmavaara discloses receiving a relay message, from the second controller, including a channel assignment message, the channel assignment message indicating a channel assigned to the mobile station for communicating with the second network controller; and sending a message relay response to the mobile station that includes the channel assignment message (column 5, lines 52-61).

Re claims 7 and 15, Ahmavaara discloses requesting handoff of the mobile station to the second radio technology (column 2, lines 50-55).

Re claims 8-10, 17 and 18, Ahmavaara discloses requesting transition of the packet switched call to either a packet switched call or a circuit switched call (column 2, lines 50-63).

Re claim 14, Ahmavaara discloses establishing a signaling relationship with the identified packet data serving node such that the second network controller receives packetized traffic destined for the mobile station (figure 3a).

Claims 19-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilford et al (US 20020087674), hereinafter referred to as Guilford, in view of Vazvan et al (US 6400946), hereinafter referred to as Vazvan.

Re claims 19, 29, 34 and 40, Guilford discloses identifying wireless elements in use by the wireless unit and wireless elements available to the wireless unit for each of a plurality of network types and receiving a selection of at least one wireless element from the wireless unit (paragraphs [0067], [0070] and [0071]), but fails to explicitly disclose receiving the message by the wireless unit. However, Vazvan discloses receiving existing and prospective network system information (column 12, lines 44-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Guilford with the teaching of Vazvan in receiving existing network system information for the benefit of selecting optimal network type for a given wireless unit.

Re claims 20-23 and 30-33, Guilford discloses receiving at least one of an identifier of a network type of the wireless elements available to the wireless unit, an available wireless element for each of the at least one other network and an indicator of whether the wireless element in use by the wireless unit can relay messages to the selected wireless element (paragraph [0069]).

Re claims 24-28 and 35-39, Guilford discloses the wireless unit communicates with the current wireless element its choice of the selected wireless element to subsequently relay messages (figure 7b, element 98).

Response to Arguments

4. Applicant's arguments filed on 03/15/10 have been fully considered but they are not persuasive.

The applicant argues that Lin does not disclose the message relay request including a network controller identifier identifying a second network controller operating according to a second radio technology. The examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Lin reference was relied on to show teaching on receiving the message relay request including a network controller identifier identifying a second network controller capable

of receiving a signal from the mobile station since Ahmavaara discloses a second network controller operating a second radio technology. Therefore, it is the combined teaching of the two references that shows all the limitations of the claim.

With regard to claim 19, the applicant argues that Guilford in view of Vazvan fails to teach receiving a selection of at least one selected wireless element from the wireless unit. The examiner respectfully disagrees. Guilford discloses receiving a selection of at least one wireless element from the wireless unit (paragraphs [0067], [0070] and [0071]).

Therefore, the Examiner concludes that the rejection of claims stands.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087. The examiner can normally be reached on Mon-Fri during 7 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hong Cho/
Primary Examiner, Art Unit 2467